

2SHB 2742 - S AMD TO JUD S5130.3 301

By Senators Brandland, Schoesler and Haugen

PULLED 3/05/2010

1 On page 26, after line 8, strike the remainder of the bill, and
2 insert the following:

3

4 "NEW SECTION. **Sec. 12.** (1) The legislature finds that:

5 (a) Because of jail overcrowding persons arrested for driving
6 under the influence of intoxicating liquor or any drug or being in
7 physical control are frequently merely cited, released, and told not
8 to drive even though they may still be under the influence and a
9 danger to others if they return to their car and drive.

10 (b) In the past, the decision to impound a car incident to an
11 alcohol-related arrest was based on whether it posed a traffic hazard
12 parked on the side of the road, not whether it would soon be driven by
13 the same impaired driver, and that should be changed.

14 (c) Impounding the vehicle of a drunk driver and holding it for
15 twelve hours is a reasonable and necessary action to address a serious
16 public safety risk and does not interfere with the driver's possession
17 and use of the vehicle more than absolutely necessary to protect other
18 persons.

19 (2) The legislature intends to:

20 (a) Change the underlying reason for impounding a vehicle driven
21 by a person charged with driving under the influence of intoxicating
22 liquor or any drug or being in physical control from preventing a
23 traffic hazard on the side of the road to detaining the vehicle for a
24 short time to allow the driver to become sober;

25 (b) Make the impounding of the vehicle driven by a person charged
26 with driving under the influence of intoxicating liquor or any drug or
27 being in physical control mandatory and then to hold it for twelve

1 hours, but allow a registered owner who was not driving to redeem the
2 vehicle after impound without a twelve-hour hold.

3
4 NEW SECTION. **Sec. 13.** (1) When an operator of a vehicle is
5 arrested for a violation of RCW 46.61.502 or 46.61.504, the vehicle is
6 subject to summary impoundment and the vehicle must be impounded.
7 With the exception of the twelve-hour hold mandated under this
8 section, the procedures for notice, redemption, storage, auction, and
9 sale shall remain the same as for other impounded vehicles under this
10 chapter.

11 (2)(a) When an operator of a vehicle is arrested for a violation
12 of RCW 46.61.502 or 46.61.504 and the operator is a registered owner
13 of the vehicle, the impounded vehicle may not be redeemed within a
14 twelve-hour period following the time the impounded vehicle arrives at
15 the registered tow truck operator's storage facility as noted in the
16 registered tow truck operator's master log, unless there are two or
17 more registered owners. If there are two or more registered owners of
18 the impounded vehicle, a registered owner who is not the operator of
19 the vehicle may redeem the impounded vehicle after it arrives at the
20 registered tow truck operator's storage facility as noted in the
21 registered tow truck operator's master log.

22 (b) When an operator of a vehicle is arrested for a violation of
23 RCW 46.61.502 or 46.61.504 and the operator is a registered owner of
24 the vehicle, the police officer directing the impound shall notify the
25 operator that the impounded vehicle may not be redeemed within a
26 twelve-hour period following the time the impounded vehicle arrives at
27 the registered tow truck operator's storage facility as noted in the
28 registered tow truck operator's master log, unless there are two or
29 more registered owners. If there are two or more registered owners of
30 the impounded vehicle, the police officer directing the impound shall
31 notify the operator that the impounded vehicle may be redeemed by a
32 registered owner who is not the operator of the vehicle after the
33 impounded vehicle arrives at the registered tow truck operator's

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1 storage facility as noted in the registered tow truck operator's
2 master log.

3 (c) A registered tow truck operator that releases an impounded
4 vehicle pursuant to the requirements stated in this subsection is not
5 liable for injuries or damages sustained by the operator or third
6 parties that may result from the operator's intoxicated state.

7 (3)(a) When an operator of a vehicle is arrested for a violation
8 of RCW 46.61.502 or 46.61.504 and the operator is not a registered
9 owner of the vehicle, the impounded vehicle may be redeemed by a
10 registered owner after the impounded vehicle arrives at the registered
11 tow truck operator's storage facility as noted in the registered tow
12 truck operator's master log.

13 (b) When an operator of a vehicle is arrested for a violation of
14 RCW 46.61.502 or 46.61.504 and the operator is not a registered owner
15 of the vehicle, the police officer directing the impound shall notify
16 the operator that the impounded vehicle may be redeemed by a
17 registered owner after the impounded vehicle arrives at the registered
18 tow truck operator's storage facility as noted in the registered tow
19 truck operator's master log.

20 (c) A registered tow truck operator that releases an impounded
21 vehicle pursuant to the requirements stated in this subsection is not
22 liable for injuries or damages sustained by the operator or third
23 parties that may result from the operator's intoxicated state.

24
25 NEW SECTION. **Sec. 14.** If an impoundment arising from an alleged
26 violation of RCW 46.61.502 or 46.61.504 is determined to be in
27 violation of this chapter, then the law enforcement officer directing
28 the impoundment and the government employing the officer are not
29 liable for damages for loss of use of the vehicle if the officer had
30 reasonable grounds to believe that the operator of the vehicle was
31 driving while under the influence of intoxicating liquor or any drug,
32 or was in physical control of a vehicle while under the influence of
33 intoxicating liquor or any drug.

1 **Sec. 15.** RCW 46.55.113 and 2007 c 242 s 1 and 2007 c 86 s 1 are
2 each reenacted and amended to read as follows:

3 (1) Whenever the driver of a vehicle is arrested for a violation
4 of RCW ((~~46.61.502, 46.61.504,~~)) 46.20.342((~~7~~)) or 46.20.345, the
5 vehicle is subject to summary impoundment, pursuant to the terms and
6 conditions of an applicable local ordinance or state agency rule at
7 the direction of a law enforcement officer.

8 (2) In addition, a police officer may take custody of a vehicle,
9 at his or her discretion, and provide for its prompt removal to a
10 place of safety under any of the following circumstances:

11 (a) Whenever a police officer finds a vehicle standing upon the
12 roadway in violation of any of the provisions of RCW 46.61.560, the
13 officer may provide for the removal of the vehicle or require the
14 driver or other person in charge of the vehicle to move the vehicle to
15 a position off the roadway;

16 (b) Whenever a police officer finds a vehicle unattended upon a
17 highway where the vehicle constitutes an obstruction to traffic or
18 jeopardizes public safety;

19 (c) Whenever a police officer finds an unattended vehicle at the
20 scene of an accident or when the driver of a vehicle involved in an
21 accident is physically or mentally incapable of deciding upon steps to
22 be taken to protect his or her property;

23 (d) Whenever the driver of a vehicle is arrested and taken into
24 custody by a police officer;

25 (e) Whenever a police officer discovers a vehicle that the officer
26 determines to be a stolen vehicle;

27 (f) Whenever a vehicle without a special license plate, placard,
28 or decal indicating that the vehicle is being used to transport a
29 person with disabilities under RCW 46.16.381 is parked in a stall or
30 space clearly and conspicuously marked under RCW 46.61.581 which space
31 is provided on private property without charge or on public property;

32 (g) Upon determining that a person is operating a motor vehicle
33 without a valid and, if required, a specially endorsed driver's
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1 license or with a license that has been expired for ninety days or
2 more;

3 (h) When a vehicle is illegally occupying a truck, commercial
4 loading zone, restricted parking zone, bus, loading, hooded-meter,
5 taxi, street construction or maintenance, or other similar zone where,
6 by order of the director of transportation or chiefs of police or fire
7 or their designees, parking is limited to designated classes of
8 vehicles or is prohibited during certain hours, on designated days or
9 at all times, if the zone has been established with signage for at
10 least twenty-four hours and where the vehicle is interfering with the
11 proper and intended use of the zone. Signage must give notice to the
12 public that a vehicle will be removed if illegally parked in the zone;

13 (i) When a vehicle with an expired registration of more than
14 forty-five days is parked on a public street.

15 (3) When an arrest is made for a violation of RCW 46.20.342, if
16 the vehicle is a commercial vehicle and the driver of the vehicle is
17 not the owner of the vehicle, before the summary impoundment directed
18 under subsection (1) of this section, the police officer shall attempt
19 in a reasonable and timely manner to contact the owner of the vehicle
20 and may release the vehicle to the owner if the owner is reasonably
21 available, as long as the owner was not in the vehicle at the time of
22 the stop and arrest and the owner has not received a prior release
23 under this subsection or RCW 46.55.120(1)(a)(ii).

24 (4) Nothing in this section may derogate from the powers of police
25 officers under the common law. For the purposes of this section, a
26 place of safety may include the business location of a registered tow
27 truck operator.

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29 NEW SECTION. **Sec. 16.** Sections 12 through 14 of this act are
30 each added to chapter 46.55 RCW.

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32 NEW SECTION. **Sec. 17.** Sections 12 through 14 of this act shall
33 be known and cited as Hailey's Law."
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1
2 Renumber the sections consecutively and correct any internal
3 references accordingly.

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7 By Senator

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9 On page 26, line 13 of the title amendment, after "10.05.160;"
10 insert "reenacting and amending RCW 46.55.113; adding new sections to
11 chapter 46.55 RCW; creating new sections;"

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